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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/736,042	12/15/2003	Wayne Robert Furlan	06367 USA	4014	
23543	7590 01/10/2006		EXAMINER		
AIR PRODUCTS AND CHEMICALS, INC.			COONEY, JOHN M		
PATENT DEPARTMENT 7201 HAMILTON BOULEVARD			ART UNIT	PAPER NUMBER	
ALLENTOW	ALLENTOWN, PA 181951501			1711	
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DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Estandant of time may be available under the provision of 37 CFR 11380, in no event, however, may a may be timely filled.  If NO period for realy is specified above, the maximum staktory pariod will apply and will expire SIX (8) MONTHS from the mailing date of this communication. Failure to engly within the sect or extended period for eighy will. by stables, cause the application is cosen ad ANNOVEIC (51 U.S. C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filled, may reduce any searned period for eighy will. by stables, cause the application, even if timely filled, may reduce any searned period for eight will. by stables, cause the application is enough that the process of the mailing date of this communication, even if timely filled, may reduce any searned period for eight will be read to expend the mailing date of this communication, even if timely filled, may reduce any searned period for eight and the mailing date of this communication, even if timely filled, may reduce any searned period for eight and the mailing date of this communication, even if timely filled, may reduce any searned period for eight and the mailing date of this communication.  Status  1) Set Responsive to communication (s) filled on 17 October 2005.  2a) This action is FINAL. 2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice of a claims of the application.  4) Claim(s) 1-22 is/are pending in the application.  4) Claim(s) 1-22 is/are pending in the application.  4) Claim(s) 1-22 is/are pending in the application and for election requirement.  4 pending 1 fill the date of the extended to be application for the date of the date of the pending of the pending of the pending of		Application No.	Applicant(s)				
John m. Cooney   1711							
The MAILING DATE of this communication appears on the cover sheet with the correspondence address − Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION:  Estrations of linem spla a valiable used the provisions of 37 CFR 1.13(a), in to evert, however, way retyly be timely field  I NO parted for reply is specified above, the maximum statistory period will apply and will expire SIX (8) MONTIST from the mailing date of this communication.  Fillure to nelly which he size or standed periods for eyely in specified period for the communication, even if smelly filed, may reduce any surround priorat metally statistic, cause application to become ABMONORIO SU SL C § 133.  Any reply recoved by the Office later than these months after the mailing date of this communication, even if smelly filed, may reduce any surround priorat metally statistic, cause application of period of the state of the communication of the communication.  Status  Status  This action is FINAL.  2b)  This action is non-final.  3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4)  Claim(s)	Office Action Summary	Examiner	Art Unit				
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	Paper No(s)/Mail Date	6) Other:					

Applicant's arguments filed 10-17-05 have been fully considered but they are not persuasive.

All previous rejections are withdrawn in light of further consideration.

Fishback, Wohlman et al., and Gerkin et al. are each retained as being art of interest for their disclosures of relevant materials in the art.

The following is held as new.

## Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chojnacki et al.(5,883,142).

Chojnacki et al. disclose polyurethane foams prepared from isocyanates, polyols, hydrocarbon, fluorocarbon, and water blowing agents of the structure and boiling points claimed, catalysts as claimed, and oxyalkylene silicone foam stabilizers in amounts as claimed having controlled siloxane contents, blended average molecular weights

(BAMW) of the polyether portion, ethylene oxide contents, and other structural details(see column 4 lines 4-19, the examples, and the claims, as well as, the entire document).

Page 3

Chojnacki et al. is not seen to differ based on the employment of C4 or C5 hydrocarbons since the claims of Chojnacki et al. specifically provide for the inclusion of pentane, and the full teaching of Chojnacki et al. can not be limited specifically to that which is disclosed in its examples.

Chojnacki et al. does differ from applicants' claims in that it does not specifically recite the employment of silicone foam stabilizers having siloxane contents, blended average molecular weights (BAMW) of the polyether portion, ethylene oxide contents, and other structural details as defined by the claims. However, Chojnacki et al. does teach control of the siloxane contents, blended average molecular weights (BAMW) of the polyether portion, ethylene oxide contents, and other structural details for the purpose of regulating closed cell contents of the polyurethane foams obtained.

Accordingly, it would have been obvious for one having ordinary skill in the art to have controlled the siloxane contents, blended average molecular weights (BAMW) of the polyether portion, ethylene oxide contents, and other structural details of the silicone foam stabilizers employed within the teachings of Chojnacki et al. for the purpose of regulating closed cell contents of the polyurethane foams obtained in order to arrive at the products and processes of applicants' claims with the expectation of success in the absence of a showing of new or unexpected results.

Application/Control Number: 10/736,042 Page 4

Art Unit: 1711

Normally, changes in result effective variables are not patentable where the difference involved is one of degree, not of kind; experimentation to find *workable* conditions generally involves nor more than the application of routine skill in the art of chemical engineering. *In re Aller* 105 USPQ 233. Similarly, the determination of *optimal* values within a disclosed range is generally considered obvious. *In re Boesch* 205 USPQ 215

Applicants' showing of results has been considered. However, a persuasive showing of new or unexpected results attributable to the employment of the selected silicone foam stabilizers in the compositions as claimed has not been made which is commensurate in scope with the scope of the claims as they stand. In order to establish unexpected results for a claimed invention, objective evidence of non-obviousness must be commensurate in scope with the claims which the evidence is offered to support. In re Greenfield, 571 F.2d 1185, 1189 (CCPA 1978), In re Linder, 457 F.2d 506, 508 (1972), In re Tiffin, 448 F.2d 791, 792 (1971).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Cooney whose telephone number is 571-272-1070. The examiner can normally be reached on M-F from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck, can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PRIMARY EXAMINER

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